

JOON H. KIM

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Southern District of New York

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RADAR ONLINE LLC,

Plaintiff,

-v-

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

17 Civ. 3956 (PGG)

**ANSWER**

Defendant Federal Bureau of Investigation (“FBI” or “Defendant”), by its attorney, Joon H. Kim, Acting United States Attorney for the Southern District of New York, hereby answers the amended complaint (“Complaint”) under the Freedom of Information Act (“FOIA”) of Plaintiff Radar Online LLC (“Plaintiff”) upon information and belief as follows:

1. The first sentence of paragraph 1 of the Complaint consists of Plaintiff’s characterization of this action, to which no response is required. To the extent a response is deemed required, FBI denies the allegations in this sentence. FBI denies the allegation in the second sentence of paragraph 1.

2. Denies knowledge or information sufficient to form a belief as to the allegations in paragraph 2.

3. Defendant denies that the FBI is a federal agency as defined by the FOIA, 5 U.S.C. § 552(f), but admits that FBI is a component of the Department of Justice (“DOJ”), an

agency as defined by FOIA. The remainder of paragraph consists of a legal conclusion, to which no response is required. To the extent a response is deemed required, Defendant denies such allegation.

4. Paragraph 4 consists of legal conclusions, to which no response is required.

5. Paragraph 5 consists of legal conclusions regarding venue, to which no response is required. FBI denies knowledge or information sufficient to form a belief as to the allegations in paragraph 5 concerning Plaintiff's principal place of business.

6. Paragraph 6 consists of background information, to which no response is required as they do not aver facts in support of Plaintiff's legal claims. To the extent a response is deemed required, Defendant admits that the FBI conducted an investigation of Mr. Epstein and denies knowledge or information sufficient to form a belief as to the remaining allegations.

7. Denies that the Department of Justice allowed Epstein to plead guilty, and denies knowledge or information sufficient to form a belief as to the remainder of the allegations in paragraph 7.

8. Denies knowledge or information sufficient to form a belief as to the allegations in paragraph 8 of the complaint. To the extent paragraph 8 characterizes media reports, Defendant respectfully refers the Court to the relevant media reports for a complete and accurate statement of their contents.

9. Paragraph 9 consists of Plaintiff's characterization of its April 2017 FOIA request (the "FOIA Request"), to which characterization no response is required. To the extent a response is deemed required, FBI admits that it received a request from James Robertson dated April 20, 2017, and respectfully refers the Court to that request for a complete and accurate

statement of its contents. Defendant denies knowledge or information sufficient to form a belief as to the allegation that The National Enquirer and Radar Online are sister publications.

10. Denies the allegations in paragraph 10, except admits that Plaintiff requested expedited processing.

11. Denies the allegation contained in paragraph 11 that the FBI has provided no response to the FOIA request. The remainder of this paragraph consists of a legal conclusion, to which no response is required.

12. FBI repeats each of its responses to paragraphs 1 through 11 as if fully set forth herein.

13. Denies the allegations in paragraph 13 of the complaint.

14. Paragraph 14 consists of a legal conclusion, to which no response is required.

15. The final “Wherefore” paragraph contains Plaintiff’s prayer for relief, to which no response is required. To the extent a response is deemed required, Defendant denies that Plaintiff is entitled to the requested relief or to any relief.

### **DEFENSES**

Any allegations not specifically admitted, denied, or otherwise answered are hereby denied. For further defenses, Defendant alleges as follows:

#### **FIRST DEFENSE**

The Complaint should be dismissed to the extent Plaintiff failed to exhaust its administrative remedies prior to filing this action.

**SECOND DEFENSE**

If documents responsive to Plaintiff's request exist, such documents, or portions thereof, are exempt from disclosure to the extent provided by applicable FOIA exemptions, 5 U.S.C. § 552(b).

**THIRD DEFENSE**

Plaintiff is not entitled to a waiver of fees under 5 U.S.C. § 552(a)(4)(A)(iii).

**FOURTH DEFENSE**

Plaintiff is not entitled to attorney fees under 5 U.S.C. § 552(a)(4)(E).

**FIFTH DEFENSE**

The Court lacks subject matter jurisdiction over Plaintiff's requests for relief that exceed the relief authorized under FOIA, 5 U.S.C. § 552.

**SIXTH DEFENSE**

Radar Online is not a proper plaintiff in this action.

**SEVENTH DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

**EIGHTH DEFENSE**

Defendant may have additional defenses which are not known at this time but which may become known through further proceedings. Accordingly, Defendant reserves the right to assert each and every affirmative or other defense that may be available, including any defenses available pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure.

WHEREFORE Defendant respectfully requests that the Court: (1) dismiss the Complaint with prejudice; (2) enter judgment in favor of Defendant; and (3) grant such further relief as the Court deems just and proper.

Dated: June 12, 2017  
New York, New York

Respectfully submitted,

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